

EPA Region 10

Tribal Response Program (TRP) Guide

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Version 5



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ACRONYMS, TERMS, & DEFINITIONS

AAI	All Appropriate Inquiry	The purchaser’s investigation into past ownership and uses of a property to assess the likelihood of any contamination.
ABCA	Analysis of Brownfields Cleanup Alternatives	A document that lists possible cleanup options for a site, including the preferred option. It is typically put out for public comment. Based on consideration of the comments, it will be transformed into the final cleanup plan for the site.
ACRES	Assessment, Cleanup and Redevelopment Exchange System	https://www.epa.gov/brownfields/brownfields-grantee-reporting-assessment-cleanup-and-redevelopment-exchange-system-acres An online system used by grantees to report assessment and cleanup activities at sites. EPA reviews the data and uses it to quantitatively report on the successes of the Brownfields Program.
Administrative requirements (for Cooperative Agreement recipients)		Requirements that apply to all recipients of EPA funding, regardless of program, such as the need for regular and close-out reporting, and for compliance with federal procurement regulations. See also Programmatic requirements.
ARC	Assessment, Revolving Loan Fund, and Cleanup	The term refers to EPA’s Assessment, Revolving Loan Fund, and Cleanup grants (which are cooperative agreements) for Brownfields work. The ARC grants are competitive and have eligibility restrictions.
ASAP	Automated Standard Application for Payments	https://www.fiscal.treasury.gov/fsservices/gov/pmt/asap/asap_home.htm A system from which grantees can draw down funds from accounts pre-authorized by federal agencies.
AST	Above-ground storage tank	An above-ground vessel typically used to hold oil or other fluids.
ASTM	American Society for Testing and Materials	www.astm.org . The entity that issues guidance (for purchase) on conducting Phase I and Phase II environmental site assessments and on many other topics.
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act	http://www.epw.senate.gov/cercla.pdf A federal statute that governs the investigation and cleanup of sites contaminated with hazardous substances. The law establishes a trust fund that can be used by the government to clean up sites on the National Priorities List
CERCLA 128(a)		Refers to section 128(a) of CERCLA, which is cited as 42 United States Code 9628(a). It provides the language authorizing state and tribal response programs.
CFR	Code of Federal Regulations	www.ecfr.gov The CFR provides implementing regulations for the law/statutes.
COC	Contaminant of concern	Chemical or substance that has the potential to adversely affect humans or organisms due to its concentration, distribution, or mode of toxicity.
Consortia		More than one consortium

Consortium		An agreement, combination, or group (as of companies) formed to undertake an enterprise beyond the resources of any one member (source: Merriam-Webster dictionary).
Cooperative agreement		A legal instrument of financial assistance between EPA and a non-federal entity that provides for substantial involvement of the EPA project officer with respect to the activities carried out by the recipient. See also "Grant."
DBAC	The Alaska Department of Environmental Conservation's Brownfields Assessment and Cleanup Service	http://dec.alaska.gov/spar/csp/bf-dbac.htm Approved applicants will receive assessment and/or cleanup services free of charge. Applications are usually due in January. The maximum award for this service is currently \$200,000.
DBE	Disadvantaged Business Enterprise	https://www.sba.gov/contracting/government-contracting-programs/small-disadvantaged-businesses A business that is 51% or more owned by a disadvantaged group, such as a women-owned business, a service-disabled/veteran-owned business, or others.
DEC	Alaska Department of Environmental Conservation	http://dec.alaska.gov/ DEC is the contaminated sites regulatory entity for the State of Alaska.
DUNS number	Dun & Bradstreet Data Universal Numbering System number	http://www.dnb.com/duns-number.html A unique nine-digit number used to identify a business. A DUNS number is required to submit an application to www.grants.gov .
EC	Engineering control	Physical modification of a site, such as capping a landfill, to reduce potential for exposure to hazardous substances.
EFT	Electronic funds transfer	Transfer of money by electronic means, rather than by paper (check, cash, etc.)
Environmental Professional		A person who has the training and experience to develop opinions and conclusions about environmental conditions on a property. The definition can vary slightly by state, EPA, or ASTM standard. An environmental professional is often hired to carry out acceptable AAI, site assessment, and cleanup work.
EPA	Environmental Protection Agency	www.epa.gov
ESA	Endangered Species Act	Endangered Species Act of 1973. https://www.fws.gov/endangered/laws-policies/
	Environmental Site Assessment	An inquiry into the condition of property with respect to possible contamination, typically documented in an ESA report.
FFR	Federal Financial Report	http://epa.gov/ogd/forms/forms.htm A form submitted that reports the final status of funds expended at the end of a cooperative agreement period.
FUDS	Formerly Used Defense Site	A site that was formerly used by the military but is no longer owned by the military.
Funding Request		A document that is an abbreviated version of a work plan, filled out by an entity that is interested in applying for CERCLA 128(a) response program funding. See also Work Plan.
GIS	Geographic Information System	A mapping system that uses computers to collect, store, manipulate, analyze, and display data. Can show the concentration of a contaminant within a community in relation to points of reference such as streets and homes.

Grant		A legal instrument of financial assistance between EPA and a non-federal entity that typically does not require substantial involvement by the EPA project officer with respect to the activities carried out by the recipient of the grant. See also “cooperative agreement.”
Grantee		A term used for the recipient of a cooperative agreement or a grant.
GS	Grants Specialist	An EPA staff person who typically handles administrative issues associated with grants.
HAZWOPER	Hazardous Waste Operations and Emergency Response	The Occupational Safety and Health Administration has regulations at 29 CFR 1910.120 that discuss the HAZWOPER standard. The standard covers safety and health procedures for personnel working on cleanup operations involving hazardous substance.
IC	Institutional Control	A legal or administrative restriction on the use of or access to a site, such as through the deed, to reduce potential exposure to hazardous substances.
LVFC	Las Vegas Finance Center	EPA’s office that handles payments related to grants and cooperative agreements.
MBE	Minority-owned Business Enterprise	A business that is 51% owned by a minority group, as defined by the Small Business Administration.
NHPA	National Historic Preservation Act	The NHPA of 1966. https://www.nps.gov/history/local-law/nhpa1966.htm
Phase I ESA (or “Phase I”)	Phase I environmental site assessment	As defined in ASTM publication E1527-13, it is a process (no sampling included) to identify recognized environmental conditions (RECs) on a parcel of commercial real estate.
Phase II ESA (or “Phase II”)	Phase II environmental site assessment	As defined in ASTM E1903-11, it is a process (typically involving sampling) to evaluate the RECs identified in the Phase I to provide sufficient information regarding the nature and extent of contamination to assist in making informed business decisions about the property, and where applicable, to provide the level of knowledge necessary to satisfy the innocent purchaser defense under CERCLA. The Phase II ESA verifies the presence or absence of environmental contamination, based on the RECs identified in a Phase I ESA.
PO	Project Officer at EPA	The applicant/grantee's primary EPA contact in developing and administering the cooperative agreement.
Programmatic requirements (for Cooperative Agreement recipients)		Requirements of a particular EPA-funded program, such as the State and Tribal Response Program. For example, data entry into ACRES is a programmatic requirement of ARC and response program cooperative agreements. See also Administrative requirements.
Public Record		A publicly available list of sites at which response actions have been completed in the previous year or are planned for completion in the upcoming year.
QAPP	Quality Assurance Project Plan	A document that states project objectives, sampling design, and data quality objectives to ensure that data collected are good enough to make project decisions. EPA must approve a QAPP before sampling can begin.
QPR	Quarterly Progress Report	A report due to PO within 30 days after the end of each quarter. It summarizes program activities and expenditures for the quarterly.
RCRA	Resource Conservation and Recovery Act	A federal statute that regulates the generation, transportation, storage, treatment, and disposal of hazardous waste; includes the Corrective Action and Underground Storage Tank Programs. https://www.epa.gov/rcra
REC	Recognized Environmental Condition	An output of a Phase I report.

RFP	Request for proposal	A document issued to the contractor community that includes a scope of work (SOW) and asks the contractor to provide his/her proposed costs to accomplish the SOW.
RLF	Revolving Loan Fund	A source of funding that can be used to make loans and subgrants to other entities. The principal and interest payments on loans help replenish the RLF funds and provide funding for new loans.
SAM	System for Award Management	www.sam.gov An online system that an applicant registers with (for free) in order to apply for federal funds and do business with the U.S. Government.
SOW	Scope of work	A document prepared when hiring a contractor that describes tasks, deliverables, or services to be provided, and the schedule for completion.
Stakeholder		A person, group, or community who has an interest in a specific project, site, or area.
T&Cs	Terms and conditions	Requirements that apply to fulfilling any grant or cooperative agreement.
TAB	Technical Assistance to Brownfields Communities	A TAB program is run by a cooperative agreement recipient and provides technical assistance free of charge to any entity (community, tribe, stakeholder, etc.,) that needs help with Brownfields work.
TBA	Targeted Brownfield Assessment	An EPA service to help states, tribes, and municipalities (especially those without EPA Brownfields Assessment Grants) assess contamination at a particular site. An entity must apply, but the service is free if the entity is selected for the TBA.
USC	United States Code	https://www.law.cornell.edu/uscode/text A source of U.S. laws by citations, such as Title 42, Section 9601 and subsequent sections, which comprise CERCLA.
UST	Underground Storage Tank	An underground vessel typically used to hold oil or other fluids.
VCP	Voluntary Cleanup Program	Typically run by a State; it provides oversight to property owners to investigate and clean up hazardous substance sites in a voluntary, cooperative manner.
WBE	Women-owned Business Enterprise	A small business that is owned by a woman or women.
Work Plan		A detailed document written by response program staff and approved by EPA that describes the goals, tasks, deliverables, schedule, and budget for a response program. It is usually written to cover one year's worth of activities. See also Funding Request.

1 PURPOSE OF THIS DOCUMENT

The primary purpose of this document is to provide guidance to tribes on developing and enhancing a tribal response program (response program). A secondary purpose is to provide guidance on how to apply for response program funding. It was developed based on a review of (but not limited to) EPA Brownfields guidance, EPA State and Tribal Response Program Funding Guidance, guidance from other EPA regions, and the 2013 Indian Environmental General Assistance Program guidance document.

2 STATE AND TRIBAL RESPONSE PROGRAM – THE LAW

The Environmental Protection Agency (EPA) was formed in 1970 with a mission to protect human health and the environment (www.epa.gov). A primary component of that mission is to address environmental contamination. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA; 42 United States Code [USC] 9601 et seq) was enacted into law in 1980 to address releases of hazardous substances, to hold polluters responsible, and to provide a monetary fund (the “Superfund”) when no responsible parties could be found. CERCLA did not immediately address the problems posed by smaller, less contaminated sites, or those with only perceived contamination. In response, in 1995, EPA provided seed funding for pilot projects to address what became known as “brownfields,” and in 2002 CERCLA was amended by the Small Business Liability Relief and Brownfields Revitalization Act (the Brownfields Law).

A brownfield is defined as, “real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of hazardous substances, pollutants, contaminants, controlled substances, petroleum or petroleum products, or is mine-scarred land.” The Brownfields Program (www.epa.gov/brownfields) empowers “states, tribes, communities, and other stakeholders in economic development to work together in a timely manner to prevent, assess, safely clean up, and sustainably reuse brownfields.” More than 450,000 brownfields are estimated to exist in the U.S. Cleaning up, reinvesting in, and redeveloping these properties increases local tax bases, facilitates job growth, uses existing infrastructure, takes development pressure off undeveloped land, and improves and protects the environment.

In 2002, CERCLA was amended with Section 128(a) (found at 42 USC 9628(a)), which authorized the State and Tribal Response Program, also known as the “128 (a)” program. Section 128(a) authorizes up to \$50 million dollars of non-competitive funding for cooperative agreement recipients to “establish and enhance” response programs that generally “address the assessment, cleanup, and redevelopment of brownfields sites and other sites with actual or perceived contamination.” The funding is shared among the nation’s 50 states, tribes, and territories.

3 REGULATORY GUIDANCE

In addition to CERCLA, which is the law, the Code of Federal Regulations (CFR) describes many of the requirements and obligations that must be met in order to receive federal funding. It is a good practice to read and understand the CFR. The primary relevant CFR citations for response program funding are as follows:

- 2 CFR 200
- 2 CFR 1500
- 40 CFR 35 Subparts A and B

Link: <http://www.ecfr.gov/cgi-bin/ECFR?SID=01c241cbcd29fdb1f95f3c9786997b7a&mc=true&page=browse>

For example, to review 2 CFR 200, pick “Title 2” from the link above, then scroll to Part 200-299 and click on it.

4 WHAT IS A STATE OR TRIBAL RESPONSE PROGRAM?

A state or tribal response program oversees assessment and cleanup activities at brownfield sites. While states and tribes can define their own response programs, they must ensure that their programs meet certain requirements outlined in the Funding Guidance that is issued each year. All state and tribal response program staff should read and understand the Funding Guidance, which can be found at <https://www.epa.gov/brownfields/brownfields-comprehensive-environmental-response-compensation-and-liability-act-cercla>

At a minimum, response programs must establish or enhance the “four elements” and the “public record,” as defined in the sub-sections below. The primary purpose of the funding is to build staff/program capacity to establish or enhance a response program. Other possible uses of the funding include site-specific assessment and cleanup work related to establishing and enhancing the four elements. Less common uses of the funding include capitalizing revolving loan funds, purchasing environmental insurance, or developing other insurance mechanisms for brownfield cleanup activities.

Building program capacity means increasing the **knowledge and resources** of response program staff so that they have the ability to oversee and respond to the assessment or cleanup of perceived or known contamination in their community. Developed capacity is demonstrated by adopting and institutionalizing tools (processes, handbooks, response program documents, websites, etc.) that ensure a response program can be sustained effectively over the long term despite staffing changes and the reliance on a single source of funding. It is important to engage the community members throughout the development of the program as well. By educating and involving them, they can assist and support the program and help deter and prevent future brownfields (e.g., by no longer dumping motor oil on the ground, etc.). Once the resources, knowledge, skills, and community support are built, then the ability exists to prioritize, assess, and clean up specific sites for reuse.

EPA expects to see response programs well established—which typically takes at least a year, usually longer—before assessments or cleanups are undertaken. By well established, EPA means that response program staff have the knowledge, procedures, ordinances, etc., in place to govern how the response program is carried out. For example, EPA would want response program staff to understand what the purpose of a Quality Assurance Project Plan (QAPP) is, and what it should include, before hiring an environmental contractor to prepare one.

The next sections provide an overview of the components of a response program. More detailed information and allowable activities for response programs are described in Section 8.

4.1 The Four Elements

The Funding Guidance refers to establishing or enhancing the “four elements” of a response program, which are described below.

4.1.1 *Element 1. Timely survey and inventory of brownfields sites in state or tribal land*

Activities under this element involve establishing or enhancing a “system or process that will provide a reasonable estimate of the number, likely locations, and the general characteristics of brownfields sites in their state or tribal lands.” When you begin your response program, you will spend time initially building your inventory and gathering information by doing research and talking to the community members about dumpsites, spills, locations of drums, etc. You will be capturing information such as locations, historical uses, photos, possible contaminants, and possible property owners in your written inventory. Once an inventory exists, it is important to hold community meetings so that the sites can be prioritized for assessment and cleanup based on protecting human health and the environment and according to community input and needs.

4.1.2 *Element 2. Oversight and enforcement authorities or other mechanisms and resources*

For this element, response program staff need to develop oversight and enforcement authorities related to assessment and cleanup actions in their communities.¹ The goal is to ensure that states and tribes have procedures/laws/regulations, etc., to verify that a **response action** will be conducted in compliance with the law and protect human health and the environment. In addition, if the state or tribe has identified a responsible party to conduct response activities (for example, to clean up a spill or a leaking underground heating oil tank), the state or tribe needs to have a plan on how it will complete those response actions if the original responsible party does not. Note also that if someone can be identified as responsible for the contamination, then that person is expected to pay for the cleanup.

¹ In Alaska, the Alaska Department of Environmental Conservation (DEC) has oversight and enforcement authority. Thus, response program staff should work together with ADEC for this Element and for Element 4.

***What is a “response action”?** It is the action or actions taken to prevent or minimize the release of hazardous substances so that they do not endanger human health or the environment. EPA Region 10 considers assessment activities and cleanup activities to be response actions; however, only cleanup-related response actions must be included on the Public Record.*

4.1.3 Element 3. Mechanisms and resources to provide meaningful opportunities for public participation

Public participation (that is, community involvement) means talking to and collaborating with community members. The Funding Guidance describes three minimum requirements for public participation. Response program staff need to do at least the following:

- make site assessment and cleanup documents available to the public;
- give community members prior notice and opportunity to comment on cleanup plans and activities, including input on site prioritization; and
- develop a process that a community member can use to request a site assessment for property that he or she feels might release or has the potential to release hazardous materials where he or she lives or works.

4.1.4 Element 4. Mechanisms for approval of a cleanup plan and verification and certification that cleanup is complete.

For this element, the response program staff need to develop, in conjunction with governing authorities, appropriate policies/ordinances/regulations to approve cleanup plans and to verify that a response action is complete. For a response action to be complete, the governing authorities need to declare that the site is clean or able to be reused with certain restrictions known as institutional controls (e.g., do not dig lower than 5 feet, do not damage the protective cap that was placed over the site). The staff and governing authorities also need to identify what will constitute acceptable documentation from the state or tribal authorities or licensed site professional that a response action is complete.

4.2 The Public Record

In addition to taking steps to address the four elements, response program staff must also establish and maintain a “public record.” Specifically, the public record must list the name and location of sites where a response action was completed in the previous year or is planned to be completed in the upcoming year. The public record must be updated at least annually. Response program staff are required to include response actions related to cleanup activities on their public record; they can choose whether or not to include assessment activities on their public records.

4.3 Site-Specific Work

Once a response program is established and staff are well versed in what it takes to assess and cleanup sites, then staff can pursue site-specific work. **EPA Region 10 defines the start of “site-specific work” as when a site eligibility worksheet, filled out by response program staff, has been approved by EPA.** No more than 50% of the work plan budget in any year can go toward site-specific work unless a waiver to that limit is requested and approved. See Section 9 and Section 9.3 in this guide for more details on site-specific work.

4.4 Other Uses of Funding

Response program staff are encouraged to read the Funding Guidance and contact EPA for explanations on other possible eligible uses of funding, such as for purchasing environment insurance, creating a revolving loan fund for cleanup of brownfields, or doing work at non-brownfields sites.

What is a revolving loan fund? It is a source of capital (funding) that can be used to make sub-grants and loans to other entities. The principal and interest payments on loans help replenish the fund and provide funding for new loans.

5 APPLYING FOR FUNDING

If a tribal response program (TRP) would be a good fit for your organization’s environmental cleanup goals, then the following sections describe what steps are necessary to apply for response program funding.

5.1 Applicant Eligibility / Programmatic Capability

States and federally recognized tribes and consortia are eligible to apply for response program funding if they meet the criteria stated in the Funding Guidance (i.e., are establishing or enhancing a response program). In addition, per the Funding Guidance, the funding “is intended for states and tribes that have the management and administrative capacity within their government required to administer a federal grant.” As part of the funding request process, new applicants will need to describe why they want to establish a response program and what programmatic capability they have in place to ensure sound program management. The programmatic capability requirements from the 2017 Funding Guidance are as follows (<https://www.epa.gov/brownfields/brownfields-comprehensive-environmental-response-compensation-and-liability-act-cercla>):

- *Describe the organizational structure you will utilize to ensure sound program management to guarantee or confirm timely and successful expenditure of funds, and completion of all technical, administrative and financial requirements of the program and cooperative agreement.*

- *Include a brief description of the key qualifications of staff to manage the response program and/or the process you will follow to hire staff to manage the response program. If key staff is already in place, include their roles, expertise, qualifications, and experience.*
- *Discuss how this response program fits into your current environmental program(s). If you don't have an environmental program, describe your process to develop, or interest to start one.*
- *Describe if you have had adverse audit findings. If you had problems with the administration of any grants or cooperative agreements, describe how you have corrected, or are correcting, the problems.*

Application for funds is voluntary and selections are non-competitive. EPA will consider funding requests of up to \$1,000,000 per applicant and with a grant period of typically one year. For returning applicants, EPA will assess if funds have been spent appropriately and review if sufficient progress has been made on previous response program commitments before providing additional funds.

5.2 Application Process

Tribes can apply for response program funding yearly. It is a multi-step process, as described below. Successful applicants are awarded a cooperative agreement (not a grant), which means EPA may be “substantially involved” in helping you carry out the requirements of your cooperative agreement. Cooperative agreement recipients are often referred to as “grantees.”

5.2.1 Step 1 - Prepare a funding request and program activity level worksheet by the deadline

Each year after October 1, EPA releases the latest Funding Guidance for response program funding and identifies deadlines for funding requests at the following website:

<https://www.epa.gov/brownfields/brownfields-comprehensive-environmental-response-compensation-and-liability-act-cercla>

EPA’s Region 10 response program lead, currently Mary Goolie, will notify returning grantees each fall and ask them to submit a **funding request** and a **program activity level (PAL) worksheet**. She will also provide guidance on what information needs to be included in the initial funding request, which is essentially an abbreviated version of a work plan. The PAL worksheet is used to capture impacts from the funding received under the 128(a) State and Tribal Response Program.

Mary Goolie
Goolie.Mary@EPA.gov
Phone (907) 271-3414
Fax (907) 271-3424

The funding request and PAL worksheet are due (at the time of this writing) **by December 31st** each year; note that this date may change. There are no exceptions to the deadline. If you are taking over the response program from someone else, please read his/her previous cooperative agreement files to understand the status of the response program before submitting a new funding request.

PLEASE NOTE: Submittal of a funding request indicates only your intent to apply and be considered for response program funding; it is not a **formal application**. If you are invited to apply, your formal application will be submitted in the spring and will include a **detailed work plan** and other application forms. EPA may or may not invite you to apply, depending on the circumstances of the particular grant year.

5.2.2 *Step 2 – Receive an invitation to apply*

If EPA approves your funding request, you will receive an emailed invitation to apply, which will also indicate the dollar amount for which you are eligible to apply. The email will provide guidance on the work plan and other application forms that you will need to prepare and have approved by your project officer (PO), your primary point of contact at EPA, before award could occur.

5.2.3 *Step 3 - Prepare a work plan and application package in late spring*

Once the invitation arrives, it will be time to develop a work plan that describes what you want to accomplish with your response program in the coming year. EPA will provide a template for the work plan, or you can modify an existing work plan if it conforms to the new template. The work plan must be updated with realistic, attainable activities for the coming year—do not simply repeat last year’s work plan.

It is very important to write a clear, concise work plan with goals that can be measured and achieved each year. That way, you can measure annual progress and track how your program grows and evolves over time (assuming funding is available). Typically, there will be several back and forth iterations with your PO before the work plan is finally approved. For detailed guidance on preparing a meaningful work plan with measurable goals, see Appendix 1. In addition, you will need to fill out several application forms and prepare a detailed budget as part of your application package.

5.2.4 *Step 4 – Submit on www.grants.gov*

Once your PO has approved your work plan and application forms, you will need to submit them on www.grants.gov in order to complete the application process. But first, you will need to register with the System for Award Management (SAM) and have a Dun & Bradstreet Data Universal Numbering System (DUNS) number. Once those are in place, you will also need to register with www.grants.gov in order to apply.

- It can take up to **two weeks** to successfully load your application in grants.gov, so start early! Both www.grants.gov and SAM will send emails to the head of your organization, requiring him or her to verify his or her credentials before files can be uploaded.

SAM help: <https://www.sam.gov/portal/SAM/#1>

DUNS help: <http://www.dnb.com/duns-number.html>

Grants.gov help: <http://www.grants.gov/web/grants/applicants/applicant-tools-and-tips.html>

5.2.5 Step 5- Await EPA processing of application and award

Once you have successfully loaded your application into www.grants.gov, EPA staff will be notified and then able to start preparing cooperative agreement award documents. The PO and EPA grants specialist (GS) also prepare forms, enter data, and do several reviews before a cooperative agreement can be awarded. EPA strives to have all awards made by September 30th of each year. You can expect to receive an email with your cooperative agreement award document attached. Be sure to read the email and the award document thoroughly! The award document contains both administrative terms and conditions (T&Cs) and programmatic T&Cs for your cooperative agreement, which explain what you must do or must not do as a condition of receiving federal funding.

6 ROLES AND RESPONSIBILITIES

If you have been awarded a response program cooperative agreement, you will now be working with additional people at EPA (and eventually other agencies) as you carry out your work plan commitments. Your role and the role of EPA staff in administering a cooperative agreement are summarized in Table 1 below and described in more detail thereafter. In this document, the person managing a tribal response program is called the response program “coordinator,” but other titles can include environmental planner, program manager, etc. The response program coordinator has multi-faceted responsibilities and is the key to a successful program.

Table 1. Personnel, roles, and contact information

Who	Primary Role	Contact Info
Response program coordinator	Carries out work plan commitments and expends funds appropriately.	Your information as the coordinator
EPA project officer	Serves as your primary point of contact (POC) at EPA for your cooperative agreement (questions, guidance, submission of progress reports, etc.)	Assigned when your funding request is approved; listed on your cooperative agreement award document.
EPA grants specialist	Handles administrative or payment-related issues.	Listed on your cooperative agreement award document.
EPA Disadvantaged Business Enterprise (DBE) Program POC	Serves as your POC for DBE issues. Handles forms related to procurements of DBEs, also known as minority-owned business enterprises (MBEs), or women-owned-business enterprises (WBEs).	See your award document. Currently: Andrea Bennett 1200 6th Avenue, Ste. 900, OMP-173 Seattle, WA 98101 Tel: 206-553-1789 Fax: 206-553-4957 Bennett.andrea@epa.gov

Who	Primary Role	Contact Info
EPA Las Vegas Finance Center POC	Processes payment requests (“drawdowns”) submitted online by grantees at www.asap.gov , and obligates funds, such as for awards.	See your award document. Currently: Marge Pumphrey 4220 S Maryland Pkwy Bldg. C, Rm 503 Las Vegas, NV 89119 Tel: 702-798-2492 Fax: 702-798-2423 Pumphrey.margaret@epa.gov

Response Program Staff

The primary responsibility of response program staff is to carry out work plan commitments and spend the approved budget appropriately. These activities include building your response program, submitting quarterly progress reports (QPRs) and other required documentation (reporting is discussed Section 7), and keeping your PO updated on changes in personnel or desired changes to your work plan or budget.

It is recommended that the response program coordinator call his or her PO, perhaps once a month, and provide progress updates. POs are available to provide guidance and answer questions as well, so take advantage of this help if needed. If there is a change in program staff, let your PO know within 10 days so that it is clear who will be responsible for carrying out the remaining work plan commitments. Even if your staff change, you will still be expected to carry out the work plan commitments.

It is also important to keep good records. For example, you will want to use more than just a single computer to maintain records—computers can crash or go missing. Printing documents is a great idea because paper copies can be used in an office filing system, and they can always be scanned in again for easy sharing. Remember to back up electronic folders frequently on a thumb drive, on an external backup drive, on a DVD, and/or in the Cloud.

Project Officer (PO)

The current list of EPA Region 10 POs is provided below in Table 2.

Table 2. List of EPA Region 10 Project Officers

Name	Email	Phone
Deborah Burgess	Burgess.deborah@epa.gov	(360) 753-9079
Mary Goolie	Goolie.mary@epa.gov	(907) 271-3414
Terri Griffith	Griffith.terri@epa.gov	(206) 553-8511
Veronica Henzi	Henzi.veronica@epa.gov	(206) 553-1982
Joanne LaBaw	Labaw.joanne@epa.gov	(206) 553-2594
Susan Morales	Morales.susan@epa.gov	(206) 553-7299

Margaret Olson	Olson.margaret@epa.gov	(503) 326-5874
Brandon Perkins	Perkins.brandon@epa.gov	(206) 553-6396
Robert Tan	Tan.robert@epa.gov	(206) 553-2580
Ruth Williams (support staff)	Williams.ruth@epa.gov	(206) 553-0542

The PO is your primary point of contact for your cooperative agreement. He or she:

- Reviews funding requests, work plans, budgets, and forms during the application process;
- Provides programmatic assistance during and after award;
- Reviews QPRs and other deliverables; and
- Works with you to close out your cooperative agreement.

Your PO can review funding requests and provide feedback. If you are invited to apply for funding, your PO can provide programmatic guidance on your work plan so that it has clear outputs and outcomes that support EPA strategic goals, has meaningful tasks that are allowable under a response program, and has a budget that accurately justifies the amount of funding requested.

After award, your PO will monitor your performance through check-ins and review of your QPRs and other deliverables. Your PO will also keep track of performance problems and may ask for clarification if issues arise.

When it comes time to close the cooperative agreement, your PO will check in to ensure that you are providing a final progress report, a final Federal Financial Report (FFR; the Standard Form 425), and any other required reports. These documents are due within 90 days of the project period end date (which is typically 12/30 for an agreement that ended 9/30). Your PO will verify that all activities and deliverables were satisfactorily completed.

Grants Specialist (GS)

The GS works on administrative and financial matters and is typically the person who will send the award document or amendment. Before the cooperative agreement award is made, the new application, work plan, and budget will be reviewed by the GS for compliance with numerous administrative regulations and standards. After the award is made and project work has begun, the GS will monitor the agreement for compliance with the various administrative T&Cs that apply and are included as part of your award.

The GS will also process any amendments, if needed, to the agreement. If you are having payment issues, the GS will probably be the person who assists you. When the grant period is over, the GS will assist in closing out the grant. The GS may be copied on reports such as the FFR, although the original version of that report is sent to the Las Vegas Finance Center POC.

Disadvantaged Business Enterprise Program (DBE) POC

EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements is described at 40 CFR Part 33. This program is designed to help ensure that minority-owned business enterprises (MBEs) or women-owned business enterprises (WBEs) have fair access to contractual work. If you have procurements of supplies, equipment, construction work, or services that exceeded \$150,000 in a year, you will be filling out EPA Form 5700-52a related to such MBE or WBE procurements. The form is due annually by October 30 to the DBE POC.

Las Vegas Finance Center (LVFC) POC

The LVFC POC assists with any activities related to the transfer of funds. Once a cooperative agreement has been signed by an EPA award official, you, the recipient, should take steps to ensure that you can access those funds. You may "draw down" funds by one of two approved methods: via the Automated Standard Application for Payments (ASAP) or via Electronic Fund Transfer (EFT). Both of these are described in the administrative T&Cs of your award document. ASAP is the encouraged method (see also www.asap.gov). The T&Cs have guidance on how to enroll; a form is submitted to the LVFC POC. Payment typically is allowed in advance of expenditures as long as the amount seems reasonable.

Tips for drawing down funds:

- Grantees should limit the time between drawdowns and expenditures.
- Expect to be contacted by the LVFC if a drawdown is for a large sum; as a good practice, email the LVFC POC in advance if you plan to request a large drawdown, and provide justification (e.g., buying equipment).
- Manage drawdowns carefully, as the Tribe may have multiple bank accounts; be sure to request funds from the correct grant and put the funds into the properly assigned account.

7 REPORTING REQUIREMENTS

As recipients of federal funding, TRP grantees will be required to prepare several reports. While it is important to plan long-term for your response program, you will need to do short-term reporting each year on your activities, progress, and expenditures. You will be responsible for QPRs, trip reports, success stories, end-of-year reporting, and site-specific reporting. These items are described below.

7.1.1 Quarterly progress reports, trip reports, and success stories

You will be required to report quarterly on the progress of your response program. Reports are due within 30 days after the end of each quarter. The federal fiscal year (FY) begins on October 1st and ends the following September 30th; thus, the quarters that you report on, with due dates, will typically be as follows (there is room for flexibility):

- Quarter 1: October 1- December 31; due 1/31
- Quarter 2: January 1 – March 31 (includes success story); due 4/30
- Quarter 3: April 1 – June 30; due 7/31
- Quarter 4: July 1 – September 30; due 10/30 (or 12/31 for all final documentation)

EPA will provide templates for QPRs, success stories, and trip reports. The progress and expenditures that you describe in your QPR should match your work plan tasks and budget. A success story that highlights accomplishments from your response program will be provided with the second QPR. EPA may use your success story in its own publications to highlight grantees that are making a difference in their communities. Success stories from each region can be found here:

<https://www.epa.gov/brownfields/brownfields-state-tribal-program-updates>

Trip reports document where you traveled, such as to conferences and training events, what you learned from attending, and how the training is applicable to your TRP. These reports are also important for accountability of cooperative agreement expenditures and as documentation toward activities at a project site. Trips reports should be included with QPRs.

As work progresses over the year, you may find that the scope of activities or planned expenditures might deviate from the work plan. If so, it is important to discuss the changes with your PO before those changes occur. See Section 10.1 for more details on changes to work plans.

7.1.2 Final Progress Reports, Final Federal Financial Reports, and DBE/MBE/WBE forms

After the cooperative agreement ends (typically September 30th unless an extension is requested), you will be required to provide, within the next 90 days, a final progress report and a final FFR that summarize your activities and expenditures for the year. The T&Cs have guidance stating to whom these items should be submitted. You may be allowed to combine your fourth quarterly report with your final progress report; check with your PO. In addition, you will need to do DBE/MBE/WBE reporting on any actions taken related to the hiring of contractors (i.e., procurement) if you have budgeted more than \$150,000 for procuring supplies, equipment, construction, or services. EPA Form 5700-52a is used for this purpose.

7.1.3 Site-specific work reporting (ACRES)

As stated above in Section 4.3, up to 50% of response program funding may be used for site-specific work. By doing site-specific work, you will be required by the cooperative agreement T&Cs to do additional reporting in the online system known as ACRES—the Assessment, Cleanup, and Redevelopment Exchange System. The following link has everything you need to know about using ACRES:

<https://www.epa.gov/brownfields/brownfields-grantee-reporting-assessment-cleanup-and-redevelopment-exchange-system-acres>

In addition, there are live ACRES training sessions at the following website:

<https://www.epa.gov/brownfields/brownfields-online-acres-training>.

As soon as you begin spending response program funding on a particular property, you will need to enter property-specific data in ACRES. Keeping detailed, up-to-date information in ACRES over time is a great way to document the property's progress toward assessment, cleanup, and redevelopment.

7.1.4 Summary of reporting deadlines

Table 3 below provides a summary of due dates for the various cooperative agreement reports, forms, and other deliverables. A schedule like this will become part of your work plan. Most items will be submitted to your PO, though there may be other recipients as well. If you have questions, contact your PO. Many of the forms and reports, and general help on the administrative aspect of managing grants, can be found by using Region 10’s Grant Management Guidance:

https://www.epa.gov/sites/production/files/2016-03/documents/epa_region_10_grants_management_guide_0.pdf

Table 3. Typical reporting schedule

Report Type	Due Date	Project Officer	Other Recipient
Quarterly Progress Report	Within 30 days of end of each quarter	√	
Success Story	With second QPR	√	
MBE/WBE Form (Form 5700-52a)	Annually by October 30, if applicable	√	√ - DBE POC (currently Andrea Bennett)
Final Progress Report	Within 90 days after end of cooperative agreement.	√	
Final Federal Financial Report (Form SF 425)	Within 90 days after end of cooperative agreement.	√	√ LVFC POC (currently Marge Pumphrey)
Property profile form/ACRES updates	At major milestones (e.g., assessment started); ACRES has definitions to help define start/end times for activities.	n/a	n/a

8 BUILDING A RESPONSE PROGRAM

The following sections help you establish a new program and enhance an existing program. You will need to manage your program yearly (response program cooperative agreements are typically for one year), but it is important to plan for the long term—how will you build your program and assess that capacity is being built? What will you accomplish in 5, 10, or 15 years, and how will this success be visible and measurable?

8.1 Establishing your program

The cooperative agreement is a contract between your tribe and EPA. By accepting the award, you agree to follow all of the regulations and T&Cs listed in the agreement. The following general activities are recommended for getting started:

- Read and understand your cooperative agreement. It is the official award document that lists your approved budget categories and the T&Cs, which are the requirements that you have agreed to fulfill as part of having a cooperative agreement. It is very important that you

understand the T&Cs, because they explain the “dos and don’ts” for response program activities.

- Read (again) and follow your work plan closely, especially if you are taking over the response program from a previous coordinator. Keep in mind that the work plan can be revised with the prior approval of your PO.
- Develop job announcements and hire staff to fill the positions needed for the response program. It is not necessary for the positions to be full-time.
- Understand what project deliverables must be produced and what timelines need to be followed. You will have created a table in your work plan describing what deliverables are due when, but you may also want to create your own tracking checklist.
- Start building a network with state environmental personnel and any other agencies (local health agencies, spill responders, etc.,) who can help you implement your response program. In many states, the state environmental agency is the authority who will oversee cleanups and be the decision-making authority regarding whether a site is “clean” or not.
- For tribes who have Indian General Assistance Program (IGAP) funding, consider working with IGAP staff to avoid program overlap and maximize the benefits achieved from each program.
- Keep organized records – start a filing system. Organized records help demonstrate that grants are being carried out as required, and will make dealing with a potential audit much easier if your paperwork is in order. Organized files also help any new response program staff find information faster. It is a good idea to have a response program binder or folder with the following sections/information:
 - Funding request
 - Approved work plan and application forms
 - Award document – this is the OFFICIAL record for the cooperative agreement. Include any amendments as the project progresses
 - Brownfields inventory (list of potential brownfields decided upon by the community– site data, location, pictures, and any completed environmental site assessments)
 - Public Record information
 - Correspondence: internal, with the PO, and outreach to the community
 - QPRs and other deliverables (success stories, trip reports, meeting minutes, and other important documents related to your response program)
 - Key contacts list
- Clarify responsibilities of state or tribal staff (e.g., the coordinator, bookkeeper, and tribal administrator) and meet with the PO by phone within first 2 weeks of receiving the cooperative agreement.
- Continue to gather information on what types of environmental training and conferences may be helpful for staff; attend the training or conferences and remember to create trip reports.
- Purchase supplies, such a global position system (GPS) tool, to help build your inventory of contaminated sites. Supplies can also include cameras and computers. Make sure you have an accurate system for tracking these items and who is responsible for them.

- Consider establishing a website for publishing information and updates about your response program.
- Conduct education and outreach to community members (distribute newsletters, hold community meetings, do school presentations, etc.) to let them know about the new response program and how they can participate.
- Establish the permanent public record by creating a web site (encouraged) and keep printed documents available in the public library or tribal office, etc. Let the community members know where the response program information is located.
- Consider writing a manual for your response program so that if someone else takes it over, he or she has a manual for guidance. The manual could consist of “standard operating procedure (SOPs)” for various aspects of your response program, such as how to inventory, how to conduct public outreach, etc. This *R10 Tribal Response Program Guide* could be an annex to your information.

8.1.1 Building programmatic capacity related to the four elements and public record

What does “programmatic capacity” mean? It means developing your organization’s ability to run an environmental program such as a TRP. Activities include establishing the four elements of a response program and creating and updating the public record. It is important that you tie your response program activities to the four elements and the public record. Because there are many possible activities that you could do to support the four elements and the public record, some guidance and examples are described in the following appendices. Please note that the activities below are examples only, and there may be more or different activities depending on what you and your PO agree to in your work plan:

Element 1: Timely survey and inventory of brownfields sites in state or tribal land	See Appendix 2
Element 2: Oversight and enforcement authorities or other mechanisms and resources	See Appendix 3
Element 3: Mechanisms and resources to provide meaningful opportunities for public participation	See Appendix 4
Element 4: Mechanisms for approval of a cleanup plan and verification and certification that cleanup is complete	See Appendix 5
The Public Record	See Appendix 6

8.1.2 Obtaining training and attending conferences with response program funding

To help you get up to speed on developing a TRP, it can be very beneficial to meet other TRP coordinators at trainings and conferences. Some examples of conferences and when they have typically occurred in the past are as follows:

- Alaska Forum on the Environment, February (<http://www.akforum.org/>)
- State and Tribal Response Program Workshop, April
- Alaska Tribal Conference on Environmental Management, October (www.atcemak.com)
- Tribal Lands and Environment Forum (nation-wide), August (http://www7.nau.edu/itep/main/Conferences/conf_r_tlef)
- Western Brownfields Workshop (timing varies)
- National Brownfields Conference (timing varies, every other year) (<https://www.epa.gov/brownfields/2017-national-brownfields-training-conference>)

Your PO can help you decide which conferences are appropriate for your program. In addition to conferences, it can be helpful to attend training in areas such as Hazardous Waste Operations and Emergency Response (HAZWOPER), spill prevention and response, Geographical Information Systems (GIS), Phase I and II environmental site assessments, and environmental sample collection methods. Many trainings are also offered online. For in-person trainings, grantees should follow federal travel policies as well as any tribal travel policies. Grantees will need to prepare trip reports, so it is a good idea to take notes while you are at an event and keep the agenda; it helps make the report writing easier thereafter. Be sure to get approval from your PO **before** attending any training or conferences that are not in your approved work plan if you want to use TRP funds to attend.

Tip: Travel per diem rates in the contiguous U.S. are typically based on the General Services Administration rates, which can be found at <https://www.gsa.gov/portal/category/104711>. Per diem rates for Alaska and Hawaii are set by the Department of Defense: <http://www.defensetravel.dod.mil/site/perdiemCalc.cfm>

A note on HAZWOPER training

HAZWOPER is governed by the Occupational Safety and Health Administration (OSHA) and is implemented at 29 CFR 1910 (Subpart H is specific to hazardous waste) and 29 CFR 1926.65. HAZWOPER training is important if you anticipate working on known or suspected contaminated sites because it explains environmental hazards and how to protect yourself. Initial HAZWOPER training is typically 24 or 40 hours long, followed by yearly 8-hour refresher trainings.

In addition to attending the training, tribal grantees with more advanced response programs can also consider hosting HAZWOPER training for TRP staff and volunteers with the TRP. You cannot pay tribal members (or others) to attend, except for TRP staff, since their time is already being funded by the TRP. You also cannot use TRP funds to conduct any emergency response cleanups; the person/entity creating the emergency is responsible to pay. You can, however, buy supplies (<\$5,000) associated with training.

8.2 Enhancing your program

Enhancing your program means continuing to develop your knowledge (i.e., capacity), policies, procedures, and relationships, etc., for running your TRP and/or increasing the number of sites at which

response actions occur. Some examples of enhancement are described below, and many more are possible (talk with your PO); see also Section 9 related to site-specific work:

- Pursue Phase I and Phase II environmental site assessments at eligible properties
- Develop a Quality Assurance Project Plan in support of sampling efforts
- Learn about requirements for environmental professionals who conduct environmental site assessments; TRP grantees may be able to help with sampling if they have been adequately trained (TRP funds can pay for such training).
- Hire contractors following EPA and tribal procurement procedures to design cleanup strategies and remediate sites
- Inform community of benefits to reusing sites, and work with the community to identify/brainstorm redevelopment or restoration goals for sites
- Develop or update tribal ordinances that explain how to certify that cleanups are complete (e.g., in Alaska, DEC certifies that cleanups are complete; thus, obtaining a letter of “no further action” from DEC could be part of the tribal process to certify that a cleanup is complete).
- Host training courses and build relationships with other response programs to expand knowledge and share resources; partnerships are often established with the Indian General Assistance Program, Underground Storage Tank Program, etc.

8.3 Getting technical assistance

In addition to getting help from your PO and your state’s response program, there are currently four options for getting **free** technical assistance to help you address Brownfields:

- the Technical Assistance to Brownfields Communities (TAB) program,
- EPA’s Targeted Brownfields Assessment (TBA) service,
- the Alaska Department of Environmental Conservation (DEC) Brownfields Assessment and Cleanup (DBAC) service (Alaska only),
- the Tribal Technical Assistance to Brownfields Communities program (coming in 2017)

These free services are explained in more detail below.

8.3.1 The Technical Assistance to Brownfields Communities program

The following TAB programs are run by grant recipients and support EPA Regions 1 through 10. They provide technical assistance on any aspect of a response program:

- The Center for Creative Land Recycling supports EPA regions 2, 4, 9, and **10**:
<http://www.cclr.org/technical-assistance>
- Kansas State University supports EPA regions 5, 6, 7 and 8: <https://www.ksutab.org/>
- The New Jersey Institute of Technology supports EPA Regions 1 and 3:
<http://www5.njit.edu/tab/index.php>

The Center for Creative Recycling is the primary service provider in Region 10. Examples of technical assistance include, but are not limited to, help with strategic planning and execution, environmental planning and management, quality assurance project plan (QAPP) development and interpretation,

securing financial resources, environmental site assessment, risk management, and community involvement.

8.3.2 EPA's Targeted Brownfields Assessment service

As your response program matures, you may also be interested in applying for EPA's TBA service. A TBA provides an assessment of contamination on an eligible site. It is a free service for grantees, but grantees do have to apply and be selected. Applications can be submitted throughout the year.

To learn more about EPA's TBA service, go to

<https://www.epa.gov/brownfields/brownfields-and-land-revitalization-washington-idaho-oregon-and-alaska>

The Region 10 POC is currently

Joanne LaBaw, labaw.joanne@epa.gov, Phone: 206-553-2594

8.3.3 Alaska DEC Brownfields Assessment and Cleanup service

In Alaska, you can also apply for the DEC's Brownfields Assessment and Cleanup service, which is known as a "DBAC." This service can assess and/or cleanup eligible sites. DEC currently accepts applications in January and then prioritizes eligible sites for funding.

To learn more about DEC's DBAC service, go to

<http://dec.alaska.gov/spar/csp/bf-dbac.htm>

8.3.4 The Tribal Technical Assistance to Brownfields Communities program

Starting in 2017, a new Tribal TAB program will be made available only to tribes. The entities who are selected to run the Tribal TAB program will also be EPA grant recipients, and will make technical assistance available to TRP staff in areas such as understanding and building a TRP, reviewing historical information, designing sampling and analysis efforts, finding funding resources for cleanup and reuse, and helping with cleanup and redevelopment planning.

8.4 Indicators of Capacity-Building

In order to continue receiving funding, grantees will need to demonstrate that they are building capacity and making reasonable progress with respect to the four elements. How does EPA assess that capacity is being built? EPA will review your accomplishments against your work plan commitments and expenditures. It is very important to keep good records each year of what you have accomplished (QPRs and ACRES reporting [the latter for site-specific work] are essential), so that you can show how your program is progressing toward achieving cleanups in your communities.

Appendix 7 provides examples of draft indicators of capacity-building that you and EPA can use to assess how your response program is progressing from year to year. Please note that these indicators are examples only; you are not required to follow them or meet them. They are provided simply to help you think about how you might show quantitative/measurable progress for your response program.

9 SITE-SPECIFIC WORK

The next sections explain what steps are typically involved with environmental assessment and cleanup work, and what documentation is required. Additional site-specific guidance is provided in Appendix 8.

As a reminder, while you may be eager to start assessing and cleaning up sites in your community to provide a clean and healthy environment, the intent of response program funding is not to start assessing and cleaning up property in year one of your program. Rather, the intent of the response program in the beginning is to build staff and organizational capacity so that staff have the knowledge and resources to understand how to get sites in the community assessed and cleaned up. Once this capacity exists, then site-specific work can be pursued.

The typical site-specific steps involve site eligibility determination, assessment (and compliance with other federal laws), cleanup design, and cleanup. It is important to remember that many challenges to implementing cleanups, especially in remote tribal communities, stem from lack of available cleanup funding. Thus, one of the key activities for response program staff will be to research and educate themselves on all of the possible sources of assessment and cleanup funding for their communities. No more than 50% of a response program budget can be spent on site-specific work unless a waiver to this limit is requested and approved by EPA. In addition, no more than \$200,000 per site can be funded for assessments or cleanups with response program funds. Before EPA will consider allowing site-specific funding, plans must exist for the future reuse or redevelopment of the property (subsistence harvesting is a suitable reuse, too). While reuse of the property or land is the end goal, redevelopment activities (like building a school, e.g.,) are seldom funded with response program dollars. Check with your PO if you have questions.

9.1 Determine eligibility of site for response program funds

The first step toward being able to use response program funds for assessment (and cleanup) of a specific site involves filling out the **Region 10 Site Eligibility Worksheet**, which can be obtained from your PO. The worksheet, which you will fill out to the best of your ability, will make a recommendation to EPA regarding site's eligibility for TRP funding. EPA has to verify, for example, that there are no responsible parties instead who should be cleaning up the property. If EPA concurs with your eligibility determination, then you may begin site-specific work once EPA has returned the signed Site Eligibility Worksheet to you. If you have a site-specific work category in your work plan budget, you would now start tracking dollars spent for site-specific activities, and your next step would most likely be to hire a contractor to conduct a Phase I environmental site assessment ("Phase I") or similar assessment. You will also need to report your site-specific work in ACRES.

9.2 Perform a Phase I Environmental Site Assessment (ESA)

So what exactly is a Phase I ESA? It involves interviews, a site visit, and a records review—but no sampling—to identify “recognized environmental conditions (RECs)” on a piece of property. The standard of practice, as indicated in the textbox below, is defined by the publication ASTM 1527-13 (current version), and the results are typically used to support the purchase or transfer of commercial property. The publication also suggests the typical activities and report format for a Phase I ESA. If you do not have a copy of this publication, it may be very helpful to acquire one. It defines, among many other things, RECs and the qualifications necessary to be an “environmental professional.”

What is a Phase I Environmental Site Assessment?

-It is research (no sampling) to identify “recognized environmental conditions” on a piece of property.

-The established standard of practice is published by the American Society for Testing and Materials (ASTM). The current publication is ASTM E1527-13.

-It can be purchased (currently \$71) from <https://www.astm.org/Standards/E1527.htm>

In order to be a qualified environmental professional, the American Society for Testing and Materials (ASTM) standard suggests that one should be a person “possessing sufficient training and experience necessary to conduct a site reconnaissance, interviews and other activities in accordance with this practice, and from the information generated by such activities, having the ability to develop opinions and conclusions regarding recognized environmental conditions in connection with the property in question.” Your state may also have guidance for qualifications of environmental professionals. EPA’s 2014 Fact Sheet also gives the definition of an environmental professional:

https://www.epa.gov/sites/production/files/2015-09/documents/ep_defactsheet.pdf

While conducting a Phase I ESA that meets the ASTM standard may not be necessary for all response program sites since purchase and sale of commercial sites may not be in question, using the ASTM standard to assess RECs helps provide consistency in documentation. Following the Phase I ESA standard also meets the intent of the “All Appropriate Inquiries” (AAI) rule, which is written in 40 CFR Part 312 (http://www.ecfr.gov/cgi-bin/text-idx?SID=46747aab6459066e77c143a1532404c8&mc=true&tpl=/ecfrbrowse/Title40/40cfr312_main_02.tpl). This rule is intended to identify releases or threatened releases of hazardous substances, and may help an owner to be protected from liability under CERCLA.

There are generally three ways to complete a Phase I ESA: 1) by doing it yourself if you have an environmental professional on staff, 2) by hiring an environmental contractor, or 3) by using EPA’s Targeted Brownfields Assessment Service (TBA) or Alaska’s DBAC service.

The output of a Phase I ESA is typically a report with a listing of the RECs. Once you have a list of the RECs, you can then decide (with a consultant's help if necessary) whether environmental sampling is necessary. Sampling is used to better understand the hazards present in the environmental media (i.e., air, soil, sediment, seafood, surface water, or groundwater). Such sampling work occurs as part of a Phase II environmental site assessment ("Phase II"). Prior to initiating a Phase II ESA, however, you will first need to develop a Quality Assurance Project Plan (QAPP) and address National Historic Preservation Act (NHPA) and Endangered Species Act consultation requirements before doing any intrusive sampling. These items are discussed in the next sections.

9.2.1 *Quality Assurance Project Plans*

A QAPP is typically required for all EPA-funded projects that generate environmental data. It is the blueprint for how you will collect, use, and verify the quality of environmental data for decision-making.

What is a Quality Assurance Project Plan (QAPP)?

-It is the blueprint for how you will collect, use, and verify the quality of environmental data for decision-making.

-Guidance on content and format can be found at

<https://www.epa.gov/quality/agency-wide-quality-system-documents>

-See "EPA Requirements for Quality Assurance Project Plans (QA/R-5)" and "Guidance for Quality Assurance Project Plans (QA/G-5)" at that website.

A QAPP includes why you are doing the work and what questions you are trying to answer (such as, is my site contaminated with solvents at concentrations that pose a risk to human health?), as well as how the data will be collected, what analytical methods will be used, and how the data will be interpreted. For example, if you collect 20 soil samples and 10 of them have contaminant concentrations that are above a level of concern, would you conclude that the entire site is contaminated? Your QAPP should be written in such a way that you can follow your QAPP to answer such a question. The QAPP is typically written in a specific format, as outlined in the EPA guidance documents described above. The four basic QAPP sections (which are broken down into additional sections not shown here) are as follows:

- Project management
- Data generation and acquisition
- Assessment and oversight
- Data validation and usability

The QAPP **must be approved by EPA** before sampling work can begin. **This process can take up to 8 weeks** since the QAPP is reviewed by the EPA PO and EPA QA staff, and there will likely be back and forth iterations before the document is signed by EPA. Make sure to contact your PO early in the process and plan accordingly in your schedule! Also, if sampling occurs before a QAPP is approved by EPA, those costs would likely be disallowed.

There are generally two ways to complete a QAPP: 1) by doing it yourself if you have necessary expertise on staff (chemists, geologists, etc.), or 2) by hiring an environmental contractor, which is typically more common for tribes. Grantees should understand the contents of their QAPP and review them with their contractor. Grantees can also use the technical assistance services above (see Section 8.3) to get help understanding QAPPs.

9.2.2 National Historic Preservation Act

Before sampling work occurs, you will also need to provide documentation showing that you have considered and addressed any impacts to cultural resources. Section 106 of the National Historic Preservation Act (NHPA) of 1966 (Public Law 89-665; 80 Stat. 915; 16 USC 470) requires federal agencies to consult with other agencies/entities, such as Tribal Historic Preservation Officers (or tribal councils) or State Historic Preservation Officers, before undertaking any activities that might affect cultural or historic resources. The NHPA created the Advisory Council on Historic Preservation and authorized it to issue regulations governing the implementation of Section 106. These implementing regulations are set forth in 36 CFR Part 800: Protection of Historic Properties. The Brownfields Program, funded under CERCLA, is a federal program and therefore must substantively comply with NHPA requirements. The purpose of consultation is to identify historic properties (and cultural resources) that could be affected by a project, assess the potential effects of the project on such properties, and seek ways to avoid, minimize, or mitigate any adverse effects to historic properties.

Thus, response program staff need to ensure that such consultation has occurred **before** any intrusive activities occur on a site. Intrusive activities could include, as examples, drilling monitoring wells, digging test pits, or doing soil borings. You should plan for at least 60 days to get through the consultation process, since the consultation agencies have 30 days to respond to any information that is provided to them. But first, you must do research and gather information related to cultural/historic properties, which also takes time. For help with this process, contact your PO or your tribe's cultural/historic resources expert. In most cases, the PO will take responsibility to coordinate with the consultation agencies using information that you provide to him or her. The result is typically a letter for your files and EPA's files that indicates a conclusion such as, "There will be no effects on historic or cultural resources from the planned undertaking."

9.2.3 Endangered Species Act

In addition to addressing NHPA consultation requirements, response program staff must also address Endangered Species Act consultation requirements. The general goal of such consultation is to ensure that any action authorized, funded, or carried out by a federal agency shall not be likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species. For help on this process, contact your PO. In most cases, your PO will take responsibility to coordinate with the U.S. Fish and Wildlife Service and the National Marine Fisheries Services, who are the "Services" that must be consulted.

9.2.1 Perform a Phase II Environmental Site Assessment

If your Phase I ESA indicated possible contamination, you will likely want to complete a Phase II ESA. A Phase II ESA typically involves environmental sampling to assess whether hazardous substances have been released on the property. The Phase II ESA should be prepared after you have completed a Phase I ESA, a QAPP, and documented your NHPA and Endangered Species Act consultation activities. The standard of practice, as indicated in the textbox below, is defined by the publication ASTM 1903-11 (current version). The publication also suggests the typical activities and report format associated with a

What is a Phase II Environmental Site Assessment?

-It involves sampling environmental media to evaluate RECs in order to ascertain if hazardous substances or petroleum have been released or disposed of on a property.

-The standard practice for how to conduct one is written in the ASTM publication, "ASTM E1903-11."

-It can be purchased (currently \$64) from <https://www.astm.org/Standards/E1903.htm>

Phase II ESA. If you do not have a copy of this publication, it may be very helpful to acquire one.

There are generally three ways to complete a Phase II ESA: 1) by doing it yourself if you have an environmental professional on staff, 2) by hiring an environmental contractor (TRP funds may be eligible for approved sites), or 3) by pursuing EPA's Targeted Brownfields Assessment service (TBA) or Alaska's DBAC service.

The output of a Phase II ESA typically includes a report with analytical data with the concentrations of chemicals in soil, sediment, water, or air. The data will help you determine whether there was disposal or release of hazardous substances at the property. It is very helpful to compare the sampling results to environmental standards (such as federal, state, or local/tribal standards) for allowable concentrations in the environment. For example, trichloroethene is a solvent that has been found as a contaminant in groundwater. If that groundwater is used for drinking water, then the maximum contaminant level (per federal standards) in the water should be no more than 5 micrograms per liter ($\mu\text{g/L}$)² to avoid health issues. In this case, you would want to compare your groundwater sampling data concentrations to 5 $\mu\text{g/L}$ to see if your values are higher or lower than 5 $\mu\text{g/L}$.

9.3 Cleanup

Once you have completed a Phase II ESA, you may have enough data to determine if cleanup is necessary. If cleanup is warranted, there are several steps that need to occur before site cleanup can be achieved, as discussed below.

² Micrograms per liter means the same as "parts per billion (ppb)." 5 $\mu\text{g/L}$ = 5 ppb, which is like 5 dollars out of 1 billion dollars.

9.3.1 *Develop a draft cleanup plan*

An important step in designing a cleanup strategy involves first developing different alternatives for site cleanup. During this phase, you might find it helpful to work with an environmental contractor³ and state environmental personnel (for tribes in Alaska without reservation status) to develop an Analysis of Brownfields Cleanup Alternatives (ABCA) that has a couple of possible options (i.e., “alternatives”) for cleaning up the site, including a preferred option. It is a good idea to focus on effectiveness, implementability, and cost of the alternatives. For example, it might be cheap to dig up contaminated soil in Alaska, but if the soil has to be transported to Oregon for disposal, then the costs might no longer be affordable. Ask your PO for guidance on the ABCA format; typically, the cleanup process will follow the process described in the Brownfields Cleanup Grant Guidelines (<https://www.epa.gov/sites/production/files/2016-12/documents/epa-olem-oblr-16-09.pdf>).

9.3.1 *Obtain public input*

Once the ABCA is developed, it is recommended that you have a comment period to collect input from community members and other stakeholders on the ABCA; the comments may raise issues or concerns that you had not thought of and can help refine the final cleanup plan.

9.3.2 *Document and obtain approval for the final cleanup plan*

Based on community feedback, you will refine and issue a final cleanup plan. Before you can move forward with cleaning up your site, however, the final cleanup plan will need to be approved by the state or tribal environmental agency. For tribes in Alaska without reservation status, be sure state environmental personnel review and approve your final cleanup plan.

9.3.3 *Acquire cleanup funding*

One of the most challenging aspects of a response program, particularly for tribes, is finding adequate cleanup funding. Response program staff are encouraged to devote a significant amount of time to locating cleanup funding in order to have a successful cleanup. Possible sources of funding can include, but are not limited to, the following:

- The **Response Program** itself – up to 50% of response program funding can be used for approved cleanup actions (and potentially more if you ask EPA for a waiver of the 50% limit and receive it). It should be noted, however, that response program funding is very limited and unlikely to cover the cost of a cleanup. It is strongly recommended that you plan for and acquire other sources of funds for cleanups.
- The **Native American Lands Environmental Management Program**. Information is available at <http://www.denix.osd.mil/na/nalemp/>

³ Grantees are encouraged to meet regularly with the community so that they can clearly establish and communicate their vision for their site(s) to an environmental contractor. The ESA results, along with the community’s vision, will help establish the basis for the design/cleanup scope of work and ensure that only the necessary services are procured.

- The **Formerly Used Defense Sites (FUDS) program**. This program provides funding for former military sites that are no longer owned by the military. The program is under the purview of the U.S. Army and implemented by the U.S. Army Corps of Engineers, such as the Alaska District Army Corps of Engineers (www.poa.usace.army.mil). Tribes interested in submitting a site for possible FUDS funding should read Section 3-1.4.1 in the FUDS policy, available at http://www.publications.usace.army.mil/Portals/76/Publications/EngineerRegulations/ER_200-3-1.pdf
- EPA Brownfields **Assessment, Cleanup, and Revolving Loan Fund (ARC)** grants. Please note that in Alaska, no individual Indian tribes are eligible except for Metlakatla. However, other Alaskan tribal entities such as consortia or corporations are. See the ARC Guidelines for eligibility, available at <https://www.epa.gov/brownfields/apply-brownfields-grant-funding>
- The **Catalog of Domestic Federal Assistance**. You can refine your search by “Applicant Eligibility.” <https://www.cfda.gov/index?s=program&mode=list&tab=search&tabmode=list>
- **Local fees**. Does your community have a dump? Establishing fees to use the dump could help generate income to support cleanups in your community.
- The **Council of Development Finance Agencies (CFDA)**. Because response program funding cannot be used to pay for redevelopment efforts, it is also a good idea to be thinking about how you will pay for such efforts. The CFDA offers free assistance to communities on how to finance economic development on former brownfields. <http://www.cdfa.net/>

9.3.4 *Carry out the cleanup*

Once the final cleanup plan has been approved and adequate funding has been secured, you can start working with an environmental contractor to design and implement the cleanup plan. An environmental cleanup must be conducted by firms/individuals that are qualified according to established standards and regulations for the work they are performing. In addition, you should be coordinating the cleanup with your state environmental agency if they have oversight of your cleanup, which is typically the case in Alaska.

9.3.5 *Certify that the cleanup is complete*

Typically, tribes in Alaska without reservation status will work with DEC to certify that a cleanup is complete and receive documentation from DEC. Tribes in Alaska with reservation status and tribes in the lower 48 states may rely on their own regulations or CERCLA-like laws that they may have developed to govern environmental actions on their lands.

If you have been building your TRP knowledge, procedures, and ordinances, you should know what your process is for certifying that a cleanup is complete. By doing so, you will be achieving Element 4 of your response program.

9.3.6 *Redevelop or reuse the site*

Begin with the end in mind. Ultimately, the goal is to clean up a formerly contaminated site so that it can be reused for a purpose the community has deemed a priority, such as for a traditional food gathering area, a community center, or a health clinic. If you have been engaging your community members

throughout the inventory, assessment, and cleanup process, you should have established an agreed-upon reuse for your site.

10 FREQUENTLY ASKED QUESTIONS

This section provides additional guidance on a variety of topics and questions (not all-inclusive) that have been associated with response programs.

10.1 I want to change something in my work plan – what do I do?

While money should be spent as proposed in the approved work plan budget, there is some flexibility. If a change is minor, you may only need to send an email to your PO explaining the change; however, the PO will likely want to see the changes highlighted in your work plan and identified in your next QPR. If you want to significantly alter your planned tasks for the year, or change a budget category by a rule-of-thumb 10% or more—for example, if you want to transfer money from supplies to travel to support an extra training class or conference—then a formal work plan amendment will likely be needed. This means you will work with your PO to amend the work plan, and an EPA GS will send you an amended cooperative agreement. Discuss any potential work plan/budget modifications with your PO—in advance of the change—to help determine whether a proposed change requires a formal amendment or not, and to determine what additional documentation may be needed.

10.2 Do I need an environmental contract or an environmental consultant?

As you build your program, there will likely be activities for which you do not have enough environmental technical expertise to carry out the work yourself. Such activities might include conducting Phase I or Phase II ESAs, writing QAPPs, or designing cleanup actions. In these cases, you may want to hire an environmental firm to carry out the work. But, is that considered a consultant or a contract? EPA distinguishes between these two entities as follows:

- A **consultant** is an individual with specialized skills who, although not on the recipient's (that is, response program's) payroll as an employee, provides personal services to the recipient under an agreement, which essentially establishes an employer-employee relationship between the recipient and the individual providing the services. The response program staff typically direct the individual's (i.e., consultant's) work and exercises day-to-day control of the individual's activities.
- A **contract**, on the other hand, is typically used to hire an individual or firm (which could be called—confusingly—an environmental consulting firm) who furnishes deliverables or services like reports or training courses at a fixed price or lump sum with minimal oversight and direction from response program staff.

It is also important to provide competition in contracting—that means getting bids from multiple contractors for the environmental work. Response program staff should review 2 CFR 200.318-326 concerning procurement to understand what is required. Because response program funding is federal funding, the same contracting rules will apply to your contracts. In addition, EPA typically does not

support using a particular contractor just because you have always used a particular contractor. Your PO and GS can provide additional information and guidance on contracting requirements.

10.3 What is the difference between supplies and equipment?

Simply stated, supplies are property that cost less than \$5,000, and equipment is property that costs (per item) more than \$5,000 and has a useful life of more than one year.

- **Supplies** are defined at 2 CFR 200.94 as, "...all tangible personal property other than those described in §200.33 Equipment. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or \$5,000, regardless of the length of its useful life. See also §§200.20 Computing devices and 200.33 Equipment."
- **Equipment** is defined at 2 CFR 200.33 as, "...tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000. See also §§200.12 Capital assets, 200.20 Computing devices, 200.48 General purpose equipment, 200.58 Information technology systems, 200.89 Special purpose equipment, and 200.94 Supplies."

10.4 Can I spend TRP funding on....?

10.4.1 Asbestos cleanup, methamphetamine lab cleanup, or marine debris removal?

Possibly. Unless you have a waiver to exceed the 50% limit, no more than 50% of response program funding can be used for site-specific work, and you need to have a reuse plan in mind for the site(s) that you want to clean up. The sites need to qualify as Brownfields, and there must be no identifiable owner who would be responsible for paying for the contamination. You should provide the Site Eligibility Worksheet to your EPA PO to help the PO determine if the site is eligible for response program funding.

10.4.2 Tribal council member travel?

Typically, no. Response program funding is intended for those staff who are actively working on the day-to-day activities of the program. However, you can check with your PO.

10.4.3 Purchasing ASTM Phase I and Phase II guidance documents?

Yes.

10.5 Where can I go for even more information on Brownfields and response programs?

You can always contact your PO. You are encouraged to reach out to other response program staff in other villages and cities, and to attend appropriate conferences and workshops when approved by your PO. In addition, you can contact your state environmental agency and the TAB services for guidance. The following are just a few links that provide information on Brownfields and response programs, but there are many more that you can research:

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 128(a):

<http://www.epw.senate.gov/cercla.pdf>

2 CFR 200; 2 CFR 1500; 40 CFR 33 and 40 CFR 35 Subpart B

<http://www.ecfr.gov/cgi-bin/ECFR?SID=01c241cbcd29fdb1f95f3c9786997b7a&mc=true&page=browse>

The Funding Guidance for State and Tribal Response Programs (typically updated every year)

<https://www.epa.gov/brownfields/brownfields-comprehensive-environmental-response-compensation-and-liability-act-cercla>

EPA Brownfields Program

<https://www.epa.gov/brownfields>

Grants Programs for Tribes

<https://www.epa.gov/tribal/grant-programs-tribes>

Alaska State & Tribal Response Program - Brownfield Handbook (*Warning! 27 MB to download*)

<http://dec.alaska.gov/spar/csp/docs/brownfields/handbook/Brownfield%20Handbook%20March%202014%20-%20Online%20Version.pdf>

STRP Updates & Information

<https://www.epa.gov/brownfields/brownfields-state-tribal-program-updates>

<https://www.epa.gov/brownfields/brownfields-state-local-tribal-information>

APPENDICES

Appendix 1. Developing a Meaningful TRP Work Plan

The TRP work plan describes what you plan to accomplish for typically one year, and it is tied to the four elements and the public record. Typical sections include the following; EPA has a template available (check with your PO):

- Response program history, as appropriate
- Planned activities for the coming year
- Budget
- Personnel involved and roles
- Planned training/conferences
- Planned contracts
- Table of deliverables and measurable accomplishments for the year

The goal of the work plan is to set measurable, achievable tasks for your program that help you build capacity to address brownfields in your community. By keeping track with your quarterly reporting, at the end of each year, it should be clear whether or not your goals were met and what lessons were learned. In addition, when you reach the assessment and cleanup phases, you will be entering your related accomplishments in EPA's online reporting system, ACRES. Thus, having clearly identified accomplishments and deliverables supports such reporting.

All entities must negotiate a work plan with EPA in accordance with 40 CFR 35.507. In addition, work plans should be linked to the intermediate and long-term program development goals identified for your response program.

Some *Dos and Don'ts* for work plans are summarized below:

DO:

- Write clear and concise work plan objectives.
- Break down objectives into logical, consecutive, clearly stated tasks.
- Identify who is responsible for each task.
- List expected deliverables (meeting notes, reports, etc.) for each task and due dates.
- Link personnel, equipment, and other budget costs to each task.

DON'T:

- Use vaguely defined goals, objectives, tasks, timeframes, or outcomes ("ongoing").
- Leave specific outputs/deliverables unidentified.
- Omit timeframes or resources for specific objectives or tasks.
- Duplicate previous tasks or program efforts.

Pursuant to EPA Order 5700.7, "Environmental Results under EPA Assistance," EPA must link proposed work plan activities in funded assistance agreements to the EPA's Strategic Plan through environmental outputs and outcomes. Outputs and outcomes are defined as follows:

Outputs: The term "output" refers to an environmental activity, effort, and/or associated work products related to an environmental goal or objective that will be produced or provided over a period of time or

by a specified date. For each proposed work plan activity, applicants are expected to identify a measurable output. Examples of outputs (also known as deliverables) are as follows:

- Meeting minutes
- Information summaries
- Presentation materials
- Final plans
- Quarterly progress reports
- Financial reports
- Policies and procedures
- Contractor reports, detailed surveys
- Success stories
- Phase I and Phase II Assessments
- New environmental codes and ordinances
- Water sampling test results
- Newsletters
- Quality Assurance Project Plans

Outcomes: The term “outcome” refers to the result, or consequence that will occur from carrying out the activities under the cooperative agreement. Outcomes may be environmental, behavioral, health-related, or programmatic, and may not always be achievable during the project period. Examples of long-term environmental outcomes are as follows:

- 10 acres of cultural subsistence resource areas restored by assessment and cleanup
- Former warehouse site cleaned up and redeveloped as community center
- Former filling station cleaned up and sold for use as a diner
- Former contaminated site cleaned up so that it can be reused as a park
- Number of properties/acres of land in detailed inventory
- Number of properties/acres of land assessed
- Number of properties/acres of land cleaned up
- Number of properties/acres of land ready for reuse
- Number of properties/acres of land under development to meet community goals
- Amount of leveraged investment in redeveloped properties

Good work plans include such outputs and outcomes. They also make it easier to do quarterly reporting, because if you have clearly identified tasks, outputs, and outcomes, then you can assess each quarter how close you are to completing them or if you met the deadline (i.e., were you done on time)? Keeping track in your QPRs will be very helpful when it comes time to do the final progress report at the end of the project period.

Appendix 2. Guidance for Element 1: Timely survey and inventory of brownfields sites in state or tribal land



App 2 Survey &
Inventory.pdf

Appendix 3. Guidance for Element 2: Oversight and enforcement authorities or other mechanisms and resources



App 3 Oversight and
Enforcement.pdf

Appendix 4. Guidance for Element 3: Mechanisms and resources to provide meaningful opportunities for public participation



App 4 Public
Outreach.pdf

Appendix 5. Guidance for Element 4: Mechanisms for approval of a cleanup plan and verification and certification that cleanup is complete.



App 5 Cleanup
Planning & Verification

Appendix 6. Guidance for the Public Record



App 6 Public
Record.pdf

Appendix 7. Indicators of Capacity-Building



App 7 Indicators of
Capacity-Building.pdf

Appendix 8. Guidance on Site-specific Work



App 8 Site Specific
Activities - 2016.pdf